NOT FOR PUBLICATION

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. MATTHEW DAVID WEINTRAUB, Defendant and Appellant.	2d CRIM. NO. 25315 (Sup. Ct. No. A295241) Court of Appeal-Second Dist. FILED Jan. 31, 1975 Clay Robbins, Jr., Clerk

THE COURT*

Appellant was convicted of possession of marijuana for sale (Health & Saf. Code, §11359), following a submission of the case on the preliminary hearing transcript that was tantamount to a guilty plea. He is appealing from the judgment (order granting probation) and the denial of his motion

*FILES, P.J., KINGSLEY, J., DUNN, J.

under Penal Code Section 1538.5.[1/]

Appellant contends that his extra-judicial statements were erroneously admitted before the People had adequately established the crime itself had been committed. "It is clear that before extra-judicial statements may be introduced the prosecution must show a prima facie case of the corpus delicti by proof aliunde.... The corpus delicti may be proved inferentially...." (People v. Johnson, 63 Cal.2d 319, 326.)

Customs officials showed Los Angeles Police Officer Niles a package which contained 987 grams of marijuana (sometimes referred to as hashish in the testimony). It was from Amsterdam, addressed to Kathy Swanson, in care of Max Winthrop. At noon on March 6, 1973, Officer Niles observed a postman deliver that package to defendant's mother at 120 South Vista Street, Los Angeles. A fellow officer was stationed at the house while

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1. Such motions are not separately appealable, although the rulings are reviewable on the appeal from the judgment. (Pen. Code, Sec. 1538.5(m).)

Niles went to apply for a search warrant. Defendant arrived at the house around 3:30 or 4:00 p.m. Officer Niles returned about 4:30 p.m., with a warrant, pursuant to which he made a search, and seized the package of marijuana. There is no evidence that the package was ever touched by defendant.

At about 8:00 p.m. defendant, after appropriate advice and warning, told the officers that he had given $2,000 to another man to go to Amsterdam and send him four pounds of hashish, and that the name "Kathy Swanson" was fictitious, and was used to avoid identification.

The trial court reasonably concluded that this record contained substantial evidence of the elements of the offense of unlawful possession of marijuana, committed at the Vista Street address. It was a reasonable inference that the package was sent by prearrangement with someone who expected to receive it at the place of address. That quantity of contraband is not likely to be shipped from Amsterdam without a plan for its

receipt by someone in particular. It is also a reasonable inference that the person for whom the package was intended knew the nature of its contents. If that person was not Mrs. Weintraub, it was someone who relied upon her to accept the package and keep it for him or her. It follows that the person who made arrangements to receive the package at the Vista Street address came into constructive possession of the contraband when Mrs. Weintraub accepted it from the postman. This established the element of an offense committed in Los Angeles County.

The confession of the defendant was properly received to identify him as the guilty party.

The judgment (order granting probation) is affirmed. The attempted appeal from the denial of the pretrial motion is dismissed.

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